

State of Idaho

Legislative Services Office

Management Report

A communication to the Joint Finance-Appropriations Committee

DEPARTMENT OF WATER RESOURCES

FY 2005, 2006 and 2007

Report IC36007

Date Issued: November 13, 2007

Serving Idaho's Citizen Legislature

FOREWORD

PURPOSE OF REPORT

We evaluated the internal controls over financial operations of the Department of Water Resources as part of our effort to evaluate each State agency at least once every three years. This report summarizes the results of our evaluation.

SCOPE OF WORK

The management of the Department is responsible for establishing and maintaining internal controls. We obtained an understanding of the relevant policies and procedures comprising the internal control system. We also determined whether the relevant policies and procedures had actually been placed into operation. Our intent was to indicate where internal controls could be improved in order to help ensure the Department's ability to record, process, summarize, and report financial data accurately.

AUDIT AUTHORIZATION

Reported to the Joint Finance-Appropriations Committee as directed by the Legislative Council of the Idaho Legislature, authorized by Idaho Code, Section 67-429.

ASSIGNED STAFF

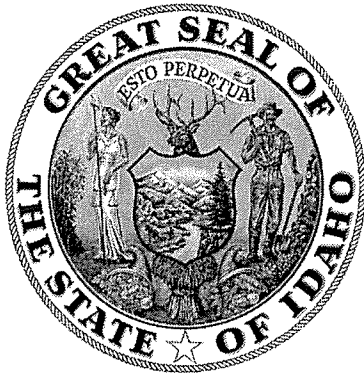
Jim Combo, CPA, Auditor in Charge
Sally Fong, Staff Auditor
Sherie Hoid, Staff Auditor

ADMINISTRATION AND TECHNICAL REVIEW

Don H. Berg, CGFM, Manager, Legislative Audits Division
Eugene Sparks, CPA, CGFM, Managing Auditor

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EXECUTIVE SUMMARY LEGISLATIVE AUDITS

DEPARTMENT OF WATER RESOURCES

PURPOSE AND SCOPE. We performed certain audit procedures to evaluate the effectiveness of the Department of Water Resources' internal control design and operation. The limited scope of our procedures does not allow us to give an opinion on the Department's internal control system. Accordingly, we do not express an opinion or ensure that all instances of internal control weaknesses were disclosed. Our purpose was to indicate where internal controls could be strengthened to help ensure accurate financial statements and data. Any findings and recommendations are intended to improve the internal control system to prevent errors, omissions, misrepresentations, or fraud.

CONCLUSION. We noted no matters involving the internal control over the Department's financial reporting or its operation that we considered to be material weaknesses. However, our consideration of internal controls would not necessarily disclose all matters considered to be a material weakness.

FINDINGS AND RECOMMENDATIONS. There are no findings and recommendations in this report.

PRIOR FINDINGS AND RECOMMENDATIONS. The prior report had one finding and recommendation, which is summarized below.

PRIOR FINDING #1. Controls over the Department's energy loan program are not adequate.

We recommended that the Department review its loan program and consider the need for reports that will help it manage the program. **We also recommended** that the Department improve internal controls and accounting procedures by:

1. Reviewing accounting duties and separating them accordingly to improve internal control.
2. Keeping documentation to support adjustment transactions and ensuring they are properly recorded.
3. Researching receivable balances and taking necessary action to ensure they are properly resolved.
4. Providing credit guidelines for banks to follow when approving energy loans, or changing the wording on the loan application.

The Department has taken steps to correct the control weaknesses in the loan program by :

1. Modifying loan program software and assigning staff new duties to segregate loan activities.
2. Reconciling loan receivable balances to STARS.
3. Removing the unexplained receivable balance in STARS.
4. Providing credit guidelines for banks to follow when approving energy loans.

STATUS: CLOSED

AGENCY RESPONSE. The Department has reviewed the report and is in general agreement with its contents.

FINANCIAL SUMMARY. The Department is funded from a General Fund appropriation, federal grants, indirect cost recoveries, licenses and fees, and revolving loan fund receipts. The following financial summary is presented for informational purposes only.

DEPARTMENT OF WATER RESOURCES – FINANCIAL SUMMARY

| <u>Fund Name</u> | <u>FY 2007</u> | | | <u>Ending Fund Balance/ Appropriation</u> |
|---|--|---|---|---|
| | <u>Beginning Fund Balance/ Appropriation</u> | <u>Plus Receipts and Transfers-in</u> | <u>Less Disbursements and Transfers-out</u> | |
| General Fund (0001) | \$13,893,747 | \$4,725 | \$13,363,195 | \$535,277 |
| Indirect Cost Recovery (0125) | 275,558 | 554,854 | 587,274 | 243,138 |
| Budget Stabilization - Economic Reserve (0150-01) | 0 | 5,610,800 | 5,547,347 | 63,453 |
| Water Administration (0229-21) | 836,232 | 878,916 | 864,012 | 851,136 |
| Water Rights Enforcement (0229-22) | 38,809 | 3,435 | 3,776 | 38,468 |
| Water Resource Adjudication (0337) | 89,537 | 103,598 | 72,200 | 120,935 |
| Federal Grant Fund (0348) | 392,456 | 2,465,716 | 2,695,394 | 162,778 |
| Miscellaneous Revenue (0349) | 566,794 | 851,772 | 847,199 | 571,367 |
| Revolving Development Fund (0490-01) | 34,976,762 | 12,432,977 | 29,514,009 | 17,895,730 |
| Water Management (0490-02) | 131,452 | 316,355 | 224,622 | 223,185 |
| Petroleum Price Violation Fund (0494) | 5,802,630 | 467,589 | 1,001,189 | 5,269,030 |
| Custodial Funds (0630) | 8,207 | 122,713 | 113,081 | 17,839 |
| TOTAL | <u>\$57,012,184</u> | <u>\$23,813,450</u> | <u>\$54,833,298</u> | <u>\$25,992,336</u> |

OTHER ISSUES. Legislative auditors discussed other matters with the Department's management which, if addressed, would improve internal control, compliance, and efficiency.

This report is intended solely for the information and use of the Department of Water Resources and the Idaho Legislature and is not intended to be used by anyone other than these specified parties.

We appreciate the cooperation and assistance provided to us by the director, David Tuthill, and his staff.

QUESTIONS CONCERNING THIS DOCUMENT SHOULD BE DIRECTED TO:

Don H. Berg, CGFM, Manager, Legislative Audits Division

Eugene Sparks, CPA, CGFM, Managing Auditor

AGENCY RESPONSE



State of Idaho

DEPARTMENT OF WATER RESOURCES

322 East Front Street • P.O. Box 83720 • Boise, Idaho 83720-0098

Phone: (208) 287-4800 • Fax: (208) 287-6700 • Web Site: www.idwr.idaho.gov

C. L. "BUTCH" OTTER
Governor

DAVID R. TUTHILL, JR.
Director

October 24, 2007

Eugene Sparks, Managing Auditor
Legislative Services
Audit Division
P.O. Box 83720
Boise, ID 83720-0054

Dear Gene,

We agree with the audit report presented to us on October 16, 2007 covering the fiscal years ended June 30, 2005 through 2007. Thanks to you and your staff for the conscientious effort on this project, the informative discussion regarding the audit results, and the suggestions for enhancements of our present control systems.

Sincerely,

A handwritten signature in black ink, appearing to read "David R. Tuthill, Jr.", written in a cursive style.

David R. Tuthill, Jr.
Director

APPENDIX

HISTORY

In 1895, the 3rd Session of the Idaho Legislature created the State Engineering Department. In order to protect the State's constitutional right to control the sale, rental, and distribution of water, the State Engineer was directed to:

1. Become familiar with waterways and irrigable lands;
2. Measure stream flows to determine which waters would be used for irrigation;
3. Collect facts on suitable locations for reservoirs; and
4. Keep records of all measurements and examinations.

At that time, in order to appropriate water from a river or stream for private use, a notice was posted at the diversion point. The notice was similar to those used to stake out mining claims. This system became unsatisfactory due to the absence of written records and consequent lack of control. In 1903, a recording system was established through the use of permits. Under the new system, water could be appropriated for any "beneficial use" after the specified forms were filed with the State Engineer. The revised system gave the State Engineer sufficient authority to bring about an equitable and economical distribution of water.

In 1919, the Department's name was changed to the Department of Reclamation and subsequently, in 1970, changed to the Department of Water Administration. At that time, the Department assumed the administration of the Carey Act from the State Land Board. The Carey Act was passed by Congress to assist in securing common land ownership and to encourage investment in the construction, under State control, of irrigation systems for reclamation of arid lands. The Department's duties were to receive, file, and investigate all proposals for construction of irrigation systems to reclaim lands selected under the Act. Administrative costs were paid from application fees.

As it became more economical to lift water from underground aquifer systems, it became apparent that regulatory laws were needed to establish water rights and controls to prevent damage to aquifer systems. Groundwater laws were passed in 1951 (and amended in 1953) to establish a statutory procedure for granting a "priority" of rights to groundwater. Most regulatory controls centered around the State's internal use of water resources.

In the early 1960's, several national and international water transfer proposals were advocated, suggesting that water from the

northwestern part of the United States could be transferred to the southwestern part. Consequently, in 1964 Idaho citizens ratified a constitutional amendment (Article XV, Section 7) authorizing creation of a water resource agency. The 1965 Idaho Legislature then created the Idaho Water Resource Board. The Board's primary function was to develop a statewide water plan.

On July 1, 1974, executive reorganization merged the Idaho Water Resource Board with the Department of Water Administration to form the Department of Water Resources.

In 1974, the Idaho Office of Energy was created by executive order. Responsibility for the Office of Energy was transferred from the Governor's Office to the Public Utilities Commission and back again. On November 10, 1982, the responsibility for the Office of Energy was transferred to the Department of Water Resources. The executive order that caused the transfer indicated that water was a vital energy resource, and that consolidation of the two activities relating to water resources and energy would provide more efficient services.

In 1984, the State (through the Governor and the Attorney General) and Idaho Power agreed to negotiate a settlement of the Snake River water rights conflict. Included in the agreement was a requirement to adjudicate all water rights in the Snake River Basin. In Idaho, water adjudications are conducted by the court. The Department of Water Resources acts as a technical expert for the court by conducting investigations of existing water rights.

When the investigations are completed, the Department will compile a report of water right claims for the court. The court will confirm the rights as property rights.

The Snake River Basin Adjudication is the largest adjudication attempted in Idaho (possibly in the nation) and approximately 185,000 water right claims have been filed through September 2007, and about 131,000 water right decrees have been issued by the court.

PURPOSE

The purpose of the Department of Water Resources is to assure optimum and beneficial utilization of the State's water resources. The Department accomplishes its purpose by:

1. Assisting the Water Resource Board in developing plans to best utilize water resources;
2. Administering laws that protect and control the use of water resources; and
3. Administering energy conservation studies and projects funded by the federal government.

STATUTORY AUTHORITY

Statutory authority for the Department is found in the Idaho Constitution, Article XV, section 7, which states: "There shall be constituted a Water Resource Agency composed as the Legislature may now or hereafter prescribe, which shall have power to formulate and implement a State Water Plan." Idaho Code, Title 42, Chapter 17 provides authority for the Department's operations. Specifically, Section 42-1701 provides for creation of the Department of Water Resources and Section 42-1732 establishes the Idaho Water Resource Board pursuant to the provisions of the State Constitution. Chapter 33, Title 67, Idaho Code covers the Department's authority related to administration of the Carey Act.

Authority for the energy functions is established and continues by executive order.

ORGANIZATION

The director of the Department of Water Resources is directly responsible to the Governor. The director is appointed by the Governor to serve at his pleasure and is directly responsible to the Governor. The Governor also appoints the eight-member Water Resources Board to four-year terms. The Board assigns administrative duties and other functions to the director to enable the Board to carry out its powers and duties.

The Department's organization during the review period consisted of three functional divisions and three support bureaus. The divisions include the Energy Division, the Water Management Division, and the Planning and Technical Services Division. The support bureaus consist of Legal Services, Support Services, and Information Services. An organizational chart is included as the last page of this Appendix.

FUNDING

The Department receives funding from General Fund appropriations, fees, and federal sources. The following lists fees collected as authorized by Idaho Code:

1. Section 42-221 authorizes collection of permit fees to appropriate public water or change existing permits.
2. Section 42-238 authorizes collection of license fees for well-drillers.
3. Section 42-1414 authorizes collection of filing fees for adjudication of water rights.
4. Section 41-1713 authorizes collection of inspection fees for dams.
5. Section 42-2038 authorizes collection of fees for applications submitted under the Carey Act.
6. Section 42-3905 authorizes collection of permit fees to construct waste disposal and injection wells.
7. Sections 42-4003 and 42-4011 authorize collection of permit fees for geothermal projects.

8. Section 42-2605 authorizes the collection of penalties for unauthorized sale of water rights.
9. Section 42-248 authorizes the collection of fees for filing a change of ownership of a water right.

The following is a description of the funds used by the Department:

General Fund (0001) – This fund is used to administer the statutory requirements of the Department and pays personnel costs, operating expenses, capital outlay, and trustee and benefit payments for the general operation of the Department.

Indirect Cost Recovery Fund (0125) – This fund consists of money recovered from indirect costs charged to federal agencies and other non-federal entities for administration costs of federal grants and other water and energy projects.

Water Administration Fund (0229-21) – This fund receives revenues from water right applications, permits, filing fees, well-drilling licenses, and various other water-right-related application fees. These funds are to be used for the administration of the provisions of title 42 of Idaho code. (I.C. § 42-238.)

Water Rights Enforcement Fund (0229-22) – This fund receives civil penalties collected by the Department for the illegal diversion or use of water. Funds are reserved and set aside and appropriated for the water rights enforcement program as directed by the Department director. (I.C. § 42-1778.)

Water Resource Adjudication (0337) – This fund was established in 1985 as a result of legal decisions concerning the usage of water from the Snake River Basin (I.C. § 42-1777). Receipts are deposited from filing fees as outlined in Idaho Code, Section 42-1414. Funds are used to pay Department expenses related to general adjudication costs.

Federal Grant Fund (0348) – This fund receives grant reimbursements from the U.S. Department of Energy, U.S. Bureau of Reclamation, U.S. Homeland Security, and the U.S. Environmental Protection Agency for various federal programs. The funds are used to administer various water and energy programs.

Miscellaneous Revenue Fund (0349) – This fund receives reimbursements from Water District One and other entities for various projects and services provided by the Department. The funds are used to pay Water District One personnel costs in addition to funding various water and energy resource studies.

Revolving Development Fund (0490-01) – Money deposited into this fund is continuously appropriated, and is not subject to the provisions of the Standard Appropriations Act of 1945. This fund receives transfers from the State's General Fund, revenues from water bank activities (renting water), and interest revenues earned from loans. Interest earned by the State Treasurer is also deposited in this fund. This fund is used to make loans for projects that further implement the Idaho State Water Plan in the public interest. Projects are reviewed and approved by the Board according to Idaho Code, §§ 42-1752, 42-1750, and 42-1759.

Water Management Fund (0490-02) – Money deposited into this fund is continuously appropriated and is not subject to the provisions of the Standard Appropriations Act of 1945. This fund receives transfers from the State's General Fund, revenues, and interest revenues earned from loans. This fund is used to purchase upstream or off-stream storage water to recharge aquifers, improve water quality, purchase water for recreational purposes, and to study water-related issues. In addition, this fund makes loans for agricultural water-improvement projects and grants. (I.C. § 42-1760.)

Petroleum Price Violation Fund (0494) – This fund is part of a nationwide redistribution to the states from the U.S. Department of Energy (DOE). The State must submit an annual plan to the DOE on how the money is to be spent. Idaho uses these funds for energy conservation projects, low-interest conservation loans, and administrative costs.

Custodial Funds (0630) – Money deposited into this fund is from cooperative agreements with the Idaho Power and U.S. Geological Survey for stream-gaging projects. In addition, the Department is holding deposits in this fund for the Carey Act.

| Idaho Department of Water Resources David Tuthill - Director | | |
|---|--|-------------------------------------|
| <u>Water Management Division</u> | <u>Planning & Technical Services Division</u> | <u>Energy Division</u> |
| Gary Spackman Administrator | Hal Anderson Administrator | Bob Hoppie Administrator |
| Resource Protection Bureau | Water Planning Bureau | Business Council |
| Dam Safety Section | Water Planning | Agriculture, |
| Ground Water Protection Section | Minimum Stream Flows | Industry and |
| Flood Plain Mgt. Unit | Water Project Funding | Municipal |
| Stream Channel Protection | Technical Services Bureau | Business Team |
| Water Allocation Bureau | Geospatial Technology Section | Energy Efficiency |
| Water Rights Permits Section | Hydrology Section | Business Team |
| Water Distribution Section | | Financial Assistance |
| Adjudication Bureau | | Program Team |
| Technical Support Section | | Renewable Resource & |
| Eastern Adjudication Unit | | Alternative Fuels |
| Southern Adjudication Unit | | Business Team |
| Western Adjudication Unit | | Performance Coach/Team |
| Regional Offices | | Consultants |
| Northern - Coeur d'Alene | | |
| Western - Boise | | |
| Southern - Twin Falls | | |
| Eastern - Idaho Falls | | |